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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Kyle et al.
Serial No.: 09/838,652
Filed: April 19, 2001
Group Art Unit: 2155
Before the Examiner: Nawaz, Asad M.
Title: DETERMINING LOGON STATUS IN A BROADBAND
NETWORK SYSTEM AND AUTOMATICALLY
RESTORING LOGON CONNECTIVITY

REPLY UNDER 37 C.F.R. §1.111

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Office Action having a mailing date of August 11, 2006, having a three-month shortened statutory period for response set to expire on November 11, 2006, Applicants respectfully reinstate the Second Appeal Brief filed on January 19, 2006 by filing herewith a third notice of appeal in compliance with 37 C.F.R. §41.31 and filing concurrently herewith a complete new Appeal Brief (referred to as the "Third Appeal Brief") in compliance with 37 C.F.R. §41.37. Applicants note that any fees paid for the first and second notices of appeal and for the first and second Appeal Briefs previously paid will be applied to this third appeal.

Applicants would like to make a request to Examiner Nawaz, SPE Saleh Najjar and to the conferee involved in the pre-trial appeal conference that they will not reopen prosecution again, but instead, allow the Examiner to file an Examiner's Answer so as to reduce the delay and expense in prosecution of this case. This is Applicants' third appeal brief in response to the second time that the Examiner has reopened prosecution. The Examiner is continually reopening prosecution because

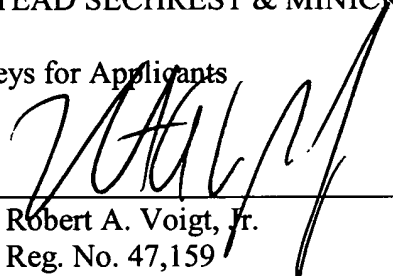
those on the pre-trial appeal conference do not believe that the Examiner will be successful in the Appeal and hence have given the Examiner numerous opportunities to strengthen the Examiner's case. This is improper and unfair. How many bites at the apple does an Examiner get? All that results is increasing the pendency of the case and further delay. If SPE Saleh Najjar and the conferee decide to let the Examiner reopen prosecution again, Applicants will be contacting the Group Director and Commerce Secretary Carlos Gutierrez regarding the lack of progress in this case.

Respectfully submitted,

WINSTEAD SECHREST & MINICK P.C.

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By: _____


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